

Translation

PATENT COOPERATION TREATY

PCT/EP2003/007045



PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference CI0050PCT	<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/EP2003/007045	International filing date ( <i>day/month/year</i> ) 02 July 2003 (02.07.2003)	Priority date ( <i>day/month/year</i> ) 02 July 2002 (02.07.2002)
International Patent Classification (IPC) or national classification and IPC A22C 5/00, B01F 15/04		
Applicant CFS GERMANY GMBH		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 5 sheets, including this cover sheet.

☒ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 1 sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 09 January 2004 (09.01.2004)	Date of completion of this report 13 October 2004 (13.10.2004)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

# INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

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## I. Basis of the report

### 1. With regard to the elements of the international application:\*

☐ the international application as originally filed

☒ the description:

pages \_\_\_\_\_ 1-10 \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_

☒ the claims:

pages \_\_\_\_\_ 1-14 \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, as amended (together with any statement under Article 19  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_ 15 \_\_\_\_\_, filed with the letter of \_\_\_\_\_ 29 June 2004 (29.06.2004)

☐ the drawings:

pages \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_

☐ the sequence listing part of the description:

pages \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_

### 2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language \_\_\_\_\_ which is:

☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).

☐ the language of publication of the international application (under Rule 48.3(b)).

☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

### 3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

☐ contained in the international application in written form.

☐ filed together with the international application in computer readable form.

☐ furnished subsequently to this Authority in written form.

☐ furnished subsequently to this Authority in computer readable form.

☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.

☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

### 4. ☐ The amendments have resulted in the cancellation of:

☐ the description, pages \_\_\_\_\_

☐ the claims, Nos. \_\_\_\_\_

☐ the drawings, sheets/fig \_\_\_\_\_

### 5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\*

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

\*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

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## V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

### 1. Statement

Novelty (N)	Claims	1, 15	YES
	Claims	12	NO
Inventive step (IS)	Claims	1, 15	YES
	Claims	12	NO
Industrial applicability (IA)	Claims	1-15	YES
	Claims		NO

### 2. Citations and explanations

1) US-A-2002/0075755 (D1) discloses a meat-processing device by means of which meat is mixed (paragraphs [33-38]). The device according to D1 contains a fat analysis device and a temperature measurement device. Furthermore, in D1, the quantity conveyed (paragraphs [11], [49] and [50]) is adjusted by controlling the pump speed. D1 does not disclose measurement of the speed (of the flow of meat). Therefore, the subject matter of claim 1 is novel (PCT Article 33(2)).

The measurement of the meat speed means that the mass flow can be determined, which enables the average fat content of the flow of meat to be determined using a fat analysis device. Therefore, such a meat speed measurement and the resulting effect are neither disclosed in nor rendered obvious by the cited prior art (PCT Article 33(3)).

2) The method according to claim 12 lacks novelty over D1, since the method shown in figure 1 discloses the measurement of the fat content of a resulting meat mixture (figure 1; box 40) (PCT Article 33(2)).

3) The method according to claim 15 is regarded as

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novel and inventive owing to the back reference to the device according to claim 1. The fat content in claim 15 is determined, *inter alia*, by a speed measurement device (for the flow of meat) according to claim 1 (PCT Article 33(2) and (3)).

- 4) The evaluation of the novelty and inventive step of dependent claims 13 and 14 can be positive only insofar as said claims refer to an independent claim, the subject matter of which is novel and involves an inventive step.